UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA, Plaintiff, vs. LONNIE G. VERNON and KAREN L. VERNON, Defendants.	)	Case 3:11-cr-00028-01-RJB Case 3:11-cr-00028-02-RJB Anchorage, Alaska Monday, August 27, 2012 1:23 o'clock p.m. PROPOSED CHANGE OF PLEA HEARING (ORAL ARGUMENT ON MOTION FOR CHANGE OF VENUE [DKT 111])

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE ROBERT J. BRYAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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ANCHORAGE, ALASKA - MONDAY, AUGUST 27, 2012

(Courtroom 2)

(On record at 1:23:37 p.m.)

THE CLERK: On record.

MS. LAMOUREUX: We're without counsel at this point. He just stepped out briefly, Your Honor.

THE COURT: Okay. Let's assume they'll come back. Okay.

(Whispered conversation)

THE COURT: You all ready to proceed? This is Cause Number 11-28, *United States versus* --

THE CLERK: Judge, can you point that microphone towards you, please?

THE COURT: -- *Karen Vernon and Lonnie Vernon*. The defendants are present in court. Mr. Gardner is here with Mrs. Vernon, and Ms. Haden is here and Mr. Curtner with Mr. Vernon. And the government is here in the person of --

THE CLERK: Judge, can you turn that microphone closer to you, please?

THE COURT: What?

THE CLERK: Can you turn that microphone closer to you, please?

THE COURT: The government is here in the person --

THE CLERK: Thank you.

THE COURT: -- of Ms. Lamoureux and Mr. Skrocki.

It's my understanding that this comes on for hearing today for change of plea in accord with the terms of plea agreements; is that correct?

MR. GARDNER: Yes, Your Honor.

MS. HADEN: Yes, sir.

THE COURT: Okay. Now, Mr. and Mrs. Vernon, let me explain about what we're going to do here. I have to take testimony from you if you want to plead guilty in accord with the terms of these plea agreements, and that means you must be placed under oath before answering questions touching on your plea. You should understand that you still have the right to remain silent. If I ask you any questions that you do not wish to answer or that you want to talk to your lawyers first before answering, you have that right, and the main thing is that you should not give me any false answers. In other words, if you choose not to answer, that's your right.

You have the right to talk to your lawyer before answering at any time, but under no circumstances should you give me any false answer. If you should give me any false answers, you can be separately prosecuted for perjury or making a false statement under oath. Both of you understand that?

(No audible responses)

THE COURT: Mr. Vernon? Okay.

And I'll ask that you both stand and raise your right hands, and the clerk will administer the oath.

MR. L. VERNON: Before we do this, Your Honor, I'd like to have a question and clarification on the record, too, please.

THE COURT: Yeah.

MR. L. VERNON: My wife and I deposed this so-called court system that we're in right now, and the agencies of that one on the end over there, Sutherland, have taken all of our records from our home. We deposed this court, all factions of its peoples, its officers, and whatever it supposedly stands for, all parts of this U.S. Government, this U.S.A., and all this stuff, and we brought them in for clarification as to jurisdiction. They did not show. Can you tell me why they did not show?

THE COURT: I'm not sure what you're asking me, Mr. Vernon.

MR. L. VERNON: I want to know who has jurisdiction over Karen Vernon and Lonnie Vernon.

THE COURT: Well, the United States of America does.

MR. L. VERNON: Okay. Can you show me a contractual agreement that my wife and I have with this country?

THE COURT: No.

MR. L. VERNON: Well, then what are we doing here?

THE COURT: Well, you know, Mr. Vernon, we can go through a long discussion about this, but what you're doing here is that you were within the United States, and under the law, the prosecutor believed that you had committed criminal acts in violation of the law. And so you were indicted by a grand jury and charged and brought to court to answer for the crimes that they allege you committed.

MR. L. VERNON: Can I see this prosecutor's written -- writ of -- I want to know who he is. I want to know what is his power of attorney over me. I want to see this contractual agreement I have with him.

THE COURT: Well, you --

MR. L. VERNON: If I'm accused of anything, it's accused -- I'm accused of one thing, exercising my First Amendment rights to the max, and protecting my wife and my life and my property as to my constitution. Apparently they don't have one where they come from. I need to know who they -- and where they reside from.

I have been set in this whole thing and denied my due process. I have been threatened, I have been starved, I have been deprived of all my medicines. I have been literally shit on by these people of this Department of Corrections. I want this on record so people know what this court system isn't. If I have to, by God which I am son of and my wife is daughter of, stand here and scream my lungs out for people to hear me, maybe somebody should get it done, because we have been deprived of all of our due process.

These paid pretenders are nothing more than pretenders. They have not helped me one iota. I've sat here and kept my mouth shut to play along with this little game so they won't take my wife and -- well, I won't even go there. But I want to know who these people are that say they have jurisdiction over my wife and I to come steal our property from us when we are no part of their people. Anyway, somebody hear me (indiscernible).

THE COURT: Well, you know, Mr. Vernon, I understand how you feel about those things. It -- your questions indicate to me that you don't understand how our legal system works in this system and how it goes along. And so the question today is whether you want to enter a plea in accord with the terms of your plea agreement.

MR. L. VERNON: Yes, I do want to enter. I'm going to enter guilty, yes, I am.

THE COURT: Okay.

MR. L. VERNON: I'm going to enter guilty on my First Amendment rights, caught using all the way to the hilt.

THE COURT: Well, all right. Let's go back to where we were in the plea process, and that was that I had just asked you to stand, both of you to stand and raise your right hand. The clerk will administer the oaths.

KAREN LOUISE VERNON, DEFENDANT, SWORN

LONNIE GENE VERNON, DEFENDANT, SWORN

THE CLERK: Thank you. Please be seated.

THE COURT: I didn't hear everything you said. Did you --

MR. L. VERNON: I said to God almighty, my father, my wife, and all the free men on this land.

THE COURT: You -- and that was an affirmative response to the oath, Mr. Vernon?

MR. L. VERNON: Yes, it would be.

THE COURT: All right.

THE CLERK: Ma'am, starting with you, please state and spell your full name.

THE COURT: I'm sorry. Somebody said something?

THE CLERK: Yes, I'm asking them to state and spell their full name.

THE COURT: Mrs. Vernon.

MRS. K. VERNON: Karen Louise Vernon, K-a-r-e-n, L-o-u-i-s-e, V-e-r-n-o-n.

THE CLERK: Thank you.

Sir, please state and spell your full name.

MR. L. VERNON: Is it really necessary?

THE CLERK: Yes, sir.

THE COURT: Well, it's part of what we --

MR. L. VERNON: Okay, it's protocol. Lonnie Vernon, Lonnie Gene Vernon, L-o-n-n-i-e, G-e-n-e, V-e-r-n-o-n.

THE CLERK: Thank you.

EXAMINATION OF KAREN VERNON AND LONNIE VERNON

THE COURT: Okay. And, Mrs. Vernon, how much formal education have you had?

MS. K. VERNON: Twelve years.

THE COURT: And Mr. Vernon?

MR. L. VERNON: Twelve years, one year of college.

THE COURT: You can both read and write English with no difficulty, then, I take it, is that right?

MR. L. VERNON: Yes.

MS. K. VERNON: Correct.

THE COURT: And have either of you been treated recently for any mental illness or addiction to narcotics or alcohol?

MS. K. VERNON: No, sir.

MR. L. VERNON: Absolutely not.

THE COURT: And are you -- either of you currently under the influence of any medicines or drugs or anything that would affect your ability to understand these proceedings?

MS. K. VERNON: No, sir.

MR. L. VERNON: No, I'm not.

THE COURT: And I understand that you have each received a copy of the indictment that was charged against you in this case that you've had the opportunity to discuss the charges and these proposed plea agreements with your lawyers; is that correct, Mrs. Vernon?

MS. K. VERNON: That's correct.

THE COURT: Mr. Vernon?

MR. L. VERNON: Yes, I did. I read them over myself.

THE COURT: I'm sorry?

MR. L. VERNON: Yes, I did. I read them over myself.

THE COURT: Okay. Now, it's necessary that I go through the plea agreements with you to be sure that you understand them and that I understand them as well. And it's -- I have copies of the agreement that was filed before being signed. Have there been any changes since Friday?

MS. LAMOUREUX: Your Honor, the only exchange is that for Karen Vernon's plea agreement, there's one paragraph in the factual basis which they have X'd out because Ms. Vernon was not present during that conversation between Mr. Vernon and the confidential informant. And I'm referring to the plea agreement that was filed at Docket 120, and specifically the paragraph that is now X'd out starts on the bottom of page 9 to the top of page 10. And above page 10, Mr. Gardner, I believe, hand wrote in "Karen Vernon was not present for this conversation and cannot attest to its truth," and then initialed it.

THE COURT: Okay. And that's all of that paragraph beginning on February 4th, 2011, and going over to the next page?

MS. LAMOUREUX: That's correct, Your Honor.

THE COURT: All right.

MS. LAMOUREUX: And if you want, we have an extra copy of the document that was filed.

THE COURT: No. I have notes on this one, so I --

MS. LAMOUREUX: Okay.

THE COURT: All right. Now, in the beginning of the plea agreements, it indicates that these plea agreements contain the full agreement that you have between yourselves and the United States and the agreements are limited to the District of Alaska, not any other districts. Do both of you understand that?

MS. K. VERNON: Yes, Your Honor.

MR. L. VERNON: I suppose.

THE COURT: And are there any other agreements between you and the United States that are not covered in this plea agreement, any other side agreements or anything like that?

MS. K. VERNON: No, sir.

MR. L. VERNON: I don't believe so.

THE COURT: Now, it's my understanding that in accord with these agreements that you each anticipate pleading guilty to Count 1 of the indictment that charges you with conspiracy to murder federal officials, and the government has agreed to dismiss the remaining counts against you if you do plead guilty under the terms of these plea agreements at the time of sentencing, and also that the government agrees not to prosecute either of you for any other offense related to the events that resulted in the charge contained in the indictment. And is that all correct?

MS. K. VERNON: Yes, sir.

MR. L. VERNON: That’s correct.

THE COURT: And you've both agreed that this is a so-called package deal, that the plea of each of you is dependent upon the plea being entered by your spouse, is that correct?

MS. K. VERNON: That’s correct.

MR. L. VERNON: That's the way it was given to us.

THE COURT: And --

MR. L. VERNON: Excuse me, offered to us.

THE COURT: Pardon me?

MR. L. VERNON: That was the way it was offered to us.

THE COURT: Well, is that the way you accepted it?

MR. L. VERNON: It's the way I accepted it.

THE COURT: And both parties here, the government and the defendants, as part of this agreement have given up any claim they may have for fees and costs from the other party.

And in the plea agreement on -- beginning on page 4, the elements of these charges, in Count 1 of each indictment is -- have been set out. Are each of you familiar with the elements of the charge of conspiracy to murder federal officials as set forth in the indictment?

MS. LAMOUREUX: Your Honor, if I may clarify in the record, for Karen Vernon, the elements are set forth on pages 4 to 5 --

THE COURT: Oh.

MS. LAMOUREUX: -- but on Mr. Vernon's plea agreement, the elements are on pages 5 to 6 in case --

THE COURT: Yeah, okay. I --

MS. LAMOUREUX: -- for their reference.

THE COURT: Right. The language, I believe, is the same but it's on different pages in the --

MS. LAMOUREUX: For the elements, that is true.

THE COURT: Yeah. Yeah. And are both of you familiar with the elements listed there of the offense of which you anticipate pleading guilty?

MS. K. VERNON: Correct.

THE COURT: Mr. Vernon?

MR. L. VERNON: Yes.

THE COURT: Now, there are other things that apply to both of you here that I want to talk with you together about. You understand that there are statutory penalties that apply to this charge, and the maximum possibility is life in prison and a maximum fine of $250,000 in addition, as well as a $100 special assessment and a maximum of five years of supervised release. Do you both understand that those are the maximum possible terms under Count 1?

MS. K. VERNON: Correct.

THE COURT: Do you understand that?

MS. K. VERNON: Yes, yes, I do.

MR. L. VERNON: That's what was presented to us.

THE COURT: All right. Now, there are other things that can occur if you plead guilty here, in addition to any penalty that the Court imposes. There can be an additional fine to pay the cost to the government of imprisonment; there can be interest on a fine, if any; and if you should violate supervised release and be reimprisoned after a term of imprisonment, you would not get credit for any supervised release that you'd already served. And also restitution can be ordered, although I understand in this case that there are no requests for restitution, is that correct?

MS. LAMOUREUX: That's correct, Your Honor.

THE COURT: All right. And both of you understand all those things?

MS. K. VERNON: Yes, I do.

MR. L. VERNON: Yes.

THE COURT: As part of this agreement, it indicates that each of you have agreed to pay the special assessment at the time of sentencing; that's $100.

And that you acknowledge here that there can be other effects of a sentence and a plea to a felony that the Court does not directly control. They're such things as Food Stamps and other federal benefits that you can lose any right to; you'll lose any right to own or possess firearms; lose the right to vote, right to hold public office, and the right to serve on a jury. Do you understand that there are those kinds of other things that can occur if you plead guilty that are not within the Court's direct control? You understand that?

MS. K. VERNON: Yes.

MR. L. VERNON: Yes.

THE COURT: And you understand that there are Sentencing Guidelines that the Court must consider and those are not mandatory but are part of what the Court considers at sentencing, along with other statutory matters that the Court looks at. And you understand that basically in sentencing, the Court must consider the offense and the offender; that is, the Court must consider you folks and your background and history, and also must consider the offense for which you're being sentenced. Do you understand those things?

MS. K. VERNON: Yes.

MR. L. VERNON: Yep.

THE COURT: And you understand that the Court will determine how the Guidelines apply at the time of sentencing and the Court cannot determine in advance, until after a presentence report is prepared and all concerned have a right to input on the matter of the application of the Sentencing Guidelines. Both of you understand that?

MS. K. VERNON: Yes, sir.

MR. L. VERNON: Yep.

THE COURT: And you have agreed here that the base offense level is 33 for Count 1 under the Guidelines, and that there should be a six-level enhancement under the Guidelines which would make it a 39 level because of the officials' roles in the tax case that's a part of the facts in this matter.

And you understand that there are other parts of the Sentencing Guidelines, that there's no --

MR. L. VERNON: Excuse me, Your Honor. Could I break in for just a second?

THE COURT: Pardon?

MR. L. VERNON: You said that was a fact of our tax case, is part of our case?

THE COURT: The six-level enhancement is applicable, and I'm quoting now from the plea agreement, because you allegedly here "conspired to murder officials of the United States because of the officials' roles in the civil tax case" against you folks.

MR. L. VERNON: These would be the ones they have not proved up their jurisdiction over us.

THE COURT: Well, I --

MR. L. VERNON: I mean, where is it? I've asked for -- my wife and I have asked for two years for this before we got into this mess, and these people brought this fraud upon us and never proved up. Who are we supposed to believe?

THE COURT: Well --

MR. L. VERNON: I mean, you're -- I can tell you're as honest as the day is long. I'm trying to be. These people come to us and commit a fraud with using little worms like that one on the end of the row over there, and his loose-lipped little buddy from back East or wherever he's from, playing his fancy-ass prosecutor crap. I don't know these people. I don't get into this stuff. I've never had to deal with it before, but when somebody doesn't prove who they are, how the hell can you do anything?

THE COURT: Well --

MR. L. VERNON: Nobody brings anything forward. We've got four boxes, those banker boxes full of paper we've played with these guys, back and forth, back and forth. Nobody proves their jurisdiction. How in the hell can we be thrown away as trash or anything that's under the guise of this United States or U.S.A. or whoever you people are? How can we be trashed away?

THE COURT: Well, Mr. Vernon --

MR. L. VERNON: We don't -- we've not bothered no one in our lives. Then this comes on us, and they come send that little worm like that who brings his little buddy up there with his machine gun in my driveway and unloads it one night, and they want us -- other things, too, but I'm not going to get into that crap. But I'd really like to know who has jurisdiction over Lonnie and Karen Vernon.

THE COURT: Well, the United States has jurisdiction over you, just like the United States has jurisdiction over me and everybody else in this courtroom.

MR. L. VERNON: Okay. You work for them. Do I have a contract with the United States? Karen?

THE COURT: No, none of us have --

MR. L. VERNON: Why not --

THE COURT: None of us have --

MR. L. VERNON: I'm not trying to make it go away but I'm just trying to find out. I want to know why and who they are.

THE COURT: None of us have contracts.

MR. L. VERNON: Okay.

THE COURT: It's --

MR. L. VERNON: And I don't, either. Okay.

THE COURT: It's --

MR. L. VERNON: Thank you.

THE COURT: It's part of being a citizen or being a -- being in the country: You subject yourself to the jurisdiction of the United States and of the Federal Courts.

MR. L. VERNON: Subject of? I thought we were born a free man and woman on the land under our Constitution.

THE COURT: That's part of --

MR. L. VERNON: I'm not --

THE COURT: You know, I'm happy to do my best to explain this to you. That's part of where a lot of people go wrong because they think that they don't have to abide by rules of government for some reason, because they're so-called sovereign citizens or whatever. We're all in this together, Mr. Vernon. We have the same obligation as citizens and we have to obey the law, and we have to pay taxes, and it's the way the system works. And you can't decide on your own that you're not going to be part of what the government rules are.

MR. L. VERNON: Okay. I'm supposed to support a war machine that goes around the world slaughtering people by the millions every year. That's not me, Mister.

THE COURT: Well -- well --

MR. L. VERNON: I am not that kind of person.

THE COURT: Yeah.

MR. L. VERNON: My wife isn't either.

THE COURT: Well --

MR. L. VERNON: I'm not trying to make a big stink here.

THE COURT: Yeah.

MR. L. VERNON: I want to find out these people are. They --

THE COURT: A lot of --

MR. L. VERNON: On it goes, I'm sorry.

THE COURT: Yeah.

MR. L. VERNON: I'll let it go.

THE COURT: Well, a lot of people agree with you, but you still have to obey and abide by the obligation of citizenship, and if you don't like the way it's going, that's why we have the whole system -- electoral system so that we can change the things we don't like. But we do it by a majority rule, so --

MR. L. VERNON: Okay.

THE COURT: -- there you are.

MR. L. VERNON: My wife and I filled out paperwork to get out of this system two years on December 8th, 2010.

THE COURT: Well, you're --

MR. L. VERNON: Who threw that away?

THE COURT: You're still here.

MR. L. VERNON: Yeah.

THE COURT: Okay. I -- let's go to the acceptance of responsibility, which is part of the Sentencing Guidelines. It's my understanding that the government has agreed to recommend acceptance of responsibility credit under the

Guidelines for Mrs. Vernon but not for Mr. Vernon and that that's part of the agreement in the plea agreements. Do both of you understand that?

MS. K. VERNON: Yes, I do.

THE COURT: You understand that, Mr. Vernon?

MR. L. VERNON: Yes, I do.

THE COURT: Now, you should understand that you're not required to plead guilty here, you have a right to stand on your pleas of not guilty and persist in those pleas. If you plead not guilty and persist in those pleas, you have a right to a speedy and public trial by jury.

And that would include a jury trial on issues regarding guilt or lack of guilt and also a jury trial on any facts that affect mandatory minimum and statutory penalties. At any such trial you have the right to testify yourself if you wish to or the right to remain silent. You have the right to subpoena people to require them to attend court for you. You have the right to confront the witnesses against you and to cross-examine them before the jury.

And also a very important part of the trial process, of course, is that you have the right to be presumed innocent and that that presumption of innocence would continue throughout the trial unless the jury finds unanimously to the contrary. So all of you understand those things, each of you understand those things?

MS. K. VERNON: Yes, I do.

MR. L. VERNON: Yes, sir. I don't wish to be witnessed [sic] again to the faction -- the fiction that I saw in the facade from the last one.

THE COURT: Okay. Now, also you understand that you have a right to counsel throughout, including at any trial, and also that if you don't have the funds to employ a lawyer, that the court would continue to provide a lawyer at public expense for trial or any post-trial proceedings.

And you understand if you choose to remain silent at trial, your silence could not be used against you.

You also would have the right to contest the validity of any searches or the composition of the grand jury and the petit jury, for that matter.

You understand that if you plead guilty here, you're giving up all those rights that go along with a trial. You understand that, Mrs. Vernon?

MS. K. VERNON: Yes, I do.

THE COURT: Mr. Vernon?

MR. L. VERNON: Yes.

THE COURT: Now, also, in both plea agreements you have agreed to give up the right to appeal any conviction resulting from your plea and also any sentence that the Court imposes provided it's -- any sentence is imposed in the -- within the terms of the plea agreements. And you also are giving up your right to collaterally attack any conviction or sentence through any writ or plea outside of the regular appeal process, except that you can collaterally attack conviction or sentence based on alleged ineffective assistance of counsel that could not have been known by you up till this time, or you can collaterally attack if there's a question as to voluntariness of your guilty plea. Do both of you understand that you're giving up your right to appeal and to collaterally attack your conviction if you plead guilty here, and your sentence if it's within the confines of the plea agreement? Understand that?

MS. K. VERNON: Yes, I do.

THE COURT: Mister --

MR. L. VERNON: Yes, that's what was presented to us.

THE COURT: Now, in regard to Mr. Vernon, it's my understanding that you're also agreeing here to give up your right to appeal the conviction by jury in Cause Number 11-22 and the right to collaterally attack that conviction. And is that part of your agreement here, Mr. Vernon?

MR. L. VERNON: I guess. It's not fair but that's what I'm going to do.

THE COURT: Okay. Now, you understand that if for any reason the Court would reject your guilty pleas or if for any reason the guilty plea is set aside at any time, the government can proceed to prosecute you on all charges that were brought against you. Do you understand that, Mrs. Vernon? If I go too fast or something, you tell me.

MS. K. VERNON: May I ask a question?

THE COURT: Yeah.

MS. K. VERNON: What does set aside mean? What do you mean?

THE COURT: Well, if for any reason your conviction -- if you plead guilty here and I find that you're convicted and then some other court or some other event would happen and the conviction would be set aside, then the government can go ahead with full prosecution.

MS. K. VERNON: Oh, I understand.

THE COURT: Understand that?

MS. K. VERNON: Okay, yeah. Yes, I do.

THE COURT: You understand that, Mr. Vernon?

MR. L. VERNON: Yes, I do.

THE COURT: And both of you have indicated toward the end of the plea agreement that this -- these documents contain all of the agreements made with you -- with the government with the assistance of your lawyer and there are no other promises of any kind, no outside agreements of any kind. And you've also indicated here that you understand that no one can guarantee the outcome of your case or what sentence the Court would impose if you plead guilty. Do both of you understand that?

MS. K. VERNON: Yes, I do.

MR. L. VERNON: Yes.

THE COURT: Has anyone, including your lawyer, done or said anything other than what's in the plea agreement to indicate to you what your sentence would actually be?

MS. K. VERNON: No.

MR. L. VERNON: No, they haven't.

THE COURT: And both of you understand that if you don't follow through with all the terms of the plea agreements, that the government can withdraw from the agreement and proceed to prosecute. Both of you understand that?

MS. K. VERNON: Yes.

MR. L. VERNON: Yes, I do.

THE COURT: And have both of you read your plea agreement carefully and gone over it carefully with your lawyer?

MS. K. VERNON: Yes.

MR. L. VERNON: Yes, I did go over it.

THE COURT: And are you satisfied with the advice and assistance that your lawyers have been able to give you up to this time, Mrs. Vernon?

MS. K. VERNON: Yes.

THE COURT: Mr. Vernon?

MR. L. VERNON: Questionable, but yes.

THE COURT: Well, you understand that once you plead guilty here, that you'll not be able to attack the work that your lawyers did for you in some other forum at any other -- in any other way. You understand that?

MS. K. VERNON: Yes.

MR. L. VERNON: Yep. Seems to be the game in this country.

THE COURT: Now, let me talk with you, Mrs. Vernon, about your plea agreement. You have indicated in the agreement with the government that the applicable Sentencing Guideline range is 188 to 235 months, and the government has agreed to recommend a term of imprisonment of not more than the low end of the Guidelines of 188 months. You understand that to be part of your plea agreement?

MS. K. VERNON: Yes.

THE COURT: And you understand that you and the government are free to make sentencing recommendations consistent with your plea agreement. You understand that?

MS. K. VERNON: Yes.

THE COURT: And you understand that you cannot -- once you enter into this plea, if I accept your plea, you cannot withdraw from the plea just because you don't like your sentence after that. You understand you're stuck with your plea once you make it?

MS. K. VERNON: Yes, I understand.

THE COURT: Okay. And you understand that you're free to make a sentencing recommendation of anything, including a recommendation below the Sentencing Guideline range.

MS. K. VERNON: Yes.

THE COURT: Okay. And you understand here that part of the agreement is that this is a global agreement, so to speak, and that if Mr. Vernon does not enter a plea of guilty in accord with the terms of his -- with his plea agreement or if he tries to withdraw his plea prior to sentencing or does withdraw it, then the whole thing is off and the government can proceed to prosecute you on all charges. Do you understand that?

MS. K. VERNON: That means we would go ahead with trial, is that correct?

THE COURT: Yes.

MS. K. VERNON: Okay. Yeah, I understand.

THE COURT: Okay. And, Mr. Gardner, are you satisfied that Mrs. Vernon understands her rights and her position in this case and that this plea agreement is reasonable under all the circumstances?

MR. GARDNER: Based on the information I have at this time, Your Honor, yes.

THE COURT: Now, Mrs. Vernon, you're charged in

Count 1 with the offense of conspiring to murder federal officials, in violation of 18 United States Code Section 1117. How do you plead to that charge as it's set forth in the indictment?

MS. K. VERNON: I plead guilty, Your Honor.

THE COURT: And, Mrs. Vernon, if I look at page 5 of the plea agreement, under the heading Factual Basis -- do you have that in front of you?

MS. K. VERNON: Yes.

THE COURT: And that Factual Basis continues over to the top of page 9 of your plea agreement.

MS. LAMOUREUX: To page 13.

THE COURT: Oh, you're right. It does go over to page 13. And that one portion on page -- beginning on page 9 was stricken. Have you carefully read all of that factual basis?

MS. K. VERNON: Yes, I have.

THE COURT: And is it all true and correct?

(Pause)

MS. K. VERNON: Yes, sir.

THE COURT: And are you asking now that I adopt the factual basis set forth in your plea agreement as your testimony in this case?

MS. K. VERNON: Yes, sir.

THE COURT: And is there anything else that I should know about this matter before ruling on Mrs. Vernon's plea?

MS. LAMOUREUX: Your Honor, there is one other paragraph.

THE COURT: Yeah.

MS. LAMOUREUX: On page 17 of Ms. Vernon's plea agreement during -- in the sentencing agreement section, there is a paragraph regarding the factual basis and the use of it after this point.

THE COURT: I'm sorry. What did I miss? I don't know what you're talking about, I'm afraid.

MS. LAMOUREUX: On page 17, the parties' agreement is that if the defendant withdraws her plea prior to sentencing or anytime after the Court accepts the plea agreement and sentences her consistent with its terms, she agrees the facts that she admits in the factual basis --

THE COURT: Oh, yeah.

MS. LAMOUREUX: -- portion of this agreement shall be admitted as stipulations in any trial or sentencing that may follow.

THE COURT: Right. Do you understand that, Mrs. Vernon?

MS. K. VERNON: Yes, I do.

THE COURT: And that is part of your agreement, is that correct?

MS. K. VERNON: Correct.

THE COURT: All right. Okay. And, Mr. Vernon, your plea agreement is a little bit different. And it's my understanding that you're agreeing that you be sentenced under Rule of Criminal Procedure 11(c)(1)(C) that you be sentenced to a term of imprisonment of between 262 and 327 months followed by five years of supervised release. And that's part of your agreement?

MR. L. VERNON: That's what they put down.

THE COURT: No, I'm asking you if it's part of your agreement.

MR. L. VERNON: I'm not up on the facts of all these limits, but that's part of the agreement.

THE COURT: And your -- part of your agreement is that your sentence in this case and in the other case, 11-22, will be between 262 and 327 months in prison totally, and that you will be sentenced under both cause numbers for both cases to one sentence of between 262 and 327 months. That all part of your agreement?

MR. L. VERNON: That's what's in it.

THE COURT: Well, you know I'm asking you --

MR. L. VERNON: Yes, that's what's in it, yes.

THE COURT: And you also have agreed here to -- that you can make whatever sentencing recommendations you want to, consistent with the agreement, and you have agreed here to give up your right to appeal your conviction and sentence under this agreement under this cause number and also give up your right to appeal or collaterally attack your conviction under Cause Number 11-22. Is that all part of your agreement?

MR. L. VERNON: Yes, that's part of my agreement.

THE COURT: And there is the exception regarding ineffective assistance of counsel or voluntariness of plea that may give you a right to collaterally attack your conviction or sentence. You understand all that?

MR. L. VERNON: Yes, I do.

THE COURT: And part of your agreement under the rule is that the Court must either accept the sentence set forth between 262 and 327 months' imprisonment, or you may withdraw from the plea agreement if the Court does not sentence you within that framework. Is that right, that's part of your agreement?

MR. L. VERNON: That's what it says, yes.

THE COURT: But if the Court would sentence you for more than 327 months, you could withdraw from the plea agreement, and if the Court sentences you to less than 262 months' imprisonment, the government could withdraw from the agreement. You understand those conditions in the agreement?

MR. L. VERNON: Yes.

THE COURT: And it is your intent that your agreement here be part of both Cause Numbers 11-22 and 11-28 and that it be a global agreement with your wife's plea. Is that also correct?

MR. L. VERNON: Yes, that's correct.

THE COURT: Now, Mr. Vernon -- well, let me ask Ms. Haden next, I guess.

Ms. Haden, do you believe that Mr. Vernon fully understands his rights and his position in the matter and that this agreement is fair and reasonable if he chooses to enter into it?

MS. HADEN: Yes, Your Honor. At this time, I do.

THE COURT: Okay. Is there anything else that I ought to know about this before I ask for his plea? Did I miss anything here?

MS. LAMOUREUX: The same language as I pointed out in Mrs. Vernon's plea agreement. In this sentencing agreement section --

THE COURT: Yeah.

MS. LAMOUREUX: -- for Mr. Vernon's plea agreement at Docket 118, it's set forth on page 18 of his plea agreement, and it's that last paragraph there.

THE COURT: And that agreement, Mr. Vernon, is that if you should withdraw your plea at any time, your -- the factual basis for your plea as set forth in the plea agreement could be used against you in the trial that would come up if you withdraw from the plea agreement. Do you understand that?

MR. L. VERNON: Yes, I do.

THE COURT: Does that cover that? I think it does.
MS. LAMOUREUX: Yes. Thank you, Your Honor.
THE COURT: Yeah, okay. Okay. Now, Mr. Vernon, you're charged in Count 1 with crime of conspiracy to murder federal officials, in violation of 18 United States Code Section 1117. How do you plead to that charge as it's set forth in the indictment?
MR. L. VERNON: Guilty to exercising my First Amendment rights with no action.
THE COURT: Well, are you pleading guilty to the offense as it's set forth in the indictment?
MR. L. VERNON: Yes.
THE COURT: And, Mr. Vernon, also I'll refer you to the factual basis for the plea that's set forth in the plea agreement, on page -- beginning on page 6 and going over to page --
MS. LAMOUREUX: Fourteen.
THE COURT: -- 14. Have you read all of that carefully?
MR. L. VERNON: Yes, I have.
THE COURT: And is it all true and correct?
MR. L. VERNON: Yes, I believe it is.
THE COURT: And are you asking now that I accept that written material as your testimony in this case in support of your plea?

MR. L. VERNON: Yes.

THE COURT: All right. Is there anything else before I rule on the pleas, counsel, that I should cover?

MS. LAMOUREUX: Not from the government, Your Honor.

MR. GARDNER: No, Your Honor.

MS. HADEN: No, Your Honor.

THE COURT: Have the plea agreements been signed and -- by all parties and filed?

MS. LAMOUREUX: Yes, Your Honor. They were filed today as Dockets 118 and 120.

THE COURT: All right. Okay.

THE CLERK: And, Judge, just so it's clear, they're actually pleading to the first superseding indictment rather than the indictment?

MS. LAMOUREUX: That's --

THE CLERK: First?

MS. LAMOUREUX: First.

THE CLERK: First superseding?

THE COURT: Yes. And in referring to the indictment, I was referring to the first superseding indictment and Count 1 thereof. Do you understand that, Mrs. Vernon?

MS. K. VERNON: Yes, that's what my paperwork shows.

THE COURT: And Mr. Vernon? Mr. Vernon, you understand that? I was referring -- when I referred to the indictment, I was referring to the Count 1 of the first superseding indictment.

MR. L. VERNON: Okay.

THE COURT: All right. Well, it appears to me that both defendants are competent and capable of entering an informed plea. They understand the nature of the charges and the consequences of their plea. There's a knowing and voluntary basis presented by the defendants which contains each of the essential elements of the offense charged in Count 1 of the superseding indictment. The pleas are knowing and voluntary and they should be accepted, and so I will now make a finding that both parties are guilty of Count 1 of the superseding indictment and the plea agreements appear at this point to me to be fair and reasonable under all the circumstances.

The next thing we will do is set sentencing. And I believe a probation officer is present, yeah. How much time are you looking at typically?

PROBATION OFFICER: Oh, 72 days from today's date, Your Honor, is -- will be November 7th. That would be about the approximate time we'll be looking at.

THE COURT: November 7th?

PROBATION OFFICER: Correct, sir.

THE COURT: When did we set the *Cox* sentencing, counsel? We reset that.

MR. SKROCKI: The 13th or 14th, Your Honor, I believe.

THE COURT: Okay.

MR. SKROCKI: I have it for the 13th.

THE COURT: What day of the week is the 13th?

MR. SKROCKI: That's a Tuesday, Judge.

THE COURT: I just --

THE CLERK: Judge, that's set for the 13th at 9:30.

THE COURT: Can we set this for either the 12th or the 14th? I'm just --

MS. LAMOUREUX: That's fine with the government, Your Honor.

MR. GARDNER: That's fine, Your Honor.

MS. HADEN: Yes, Your Honor.

THE COURT: 14 November at 9:30.

Now, Mr. and Mrs. Vernon, I'm setting sentencing as indicated on 14 November at 9:30 in the morning. There sometimes are changes in those dates as things get ready. The order that I'm signing also orders a presentence report, and the Probation Office will prepare such a report and present it to the Court. The report will advise the Court on your history and background and on how the Guidelines apply and will make recommendations to the Court as to sentencing.

You'll have the opportunity to see that report well before sentencing and will have the opportunity to attack any information in the report that is not accurate. And you'll have a chance to not only read that but to go over it with your lawyer, and we want to be sure that that's all accurate information when we get to the point of sentencing.

All right. Now, the probation officer will want to talk to you about the preparation of the presentence report. You should cooperate with the probation officer that -- in doing that, but you should understand you still have the right to remain silent. You're not required to answer his questions or her questions, whoever prepares it. But if it should come up that he asks you questions in regard to the presentence report that you think you should not answer or have a question about whether you should answer, you should talk with your lawyer about that right away because that can affect how the presentence report is put together and what the recommendation of the probation officer will be. So you do have that right, but you should be sure if you choose to exercise it that you discuss that with your lawyers at that time that that should come up.

Okay. Now, do both of you understand all this?

MS. K. VERNON: Yes, Your Honor.

MR. L. VERNON: Yes.

THE COURT: Okay. The trial will be stricken, and the sentencing in -- of Mr. Vernon in Cause Number 11-22 will be set over to the same time, 14 November.

Okay. And we'll be at recess, but counsel stick around, and we'll try to get Mr. Dooley on and set that sentence.

THE CLERK: Judge, can we deny the motion to change venue as moot?

THE COURT: It's moot.

THE CLERK: Thank you. All rise. This matter stands in -- or this matter is now adjourned. This court stands in brief recess.

(Proceedings concluded at 2:17:30 p.m.)

CERTIFICATE

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

S/M. Gaylene Larrecou October 9, 2012

M. Gaylene Larrecou, Transcriber Date

United States Court Approved

AERT Certified #00285